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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: Manoel (nmi) Tenorio
Serial No.: 10/032,945
Filing Date: September 27, 2001
Title: DYNAMIC DATABASE REDIRECTION USING SEMANTIC TAXONOMY INFORMATION

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BOX OMITTED ITEM(S)
Assistant Commissioner for Patents
Washington, D.C. 20231

CERTIFICATE OF EXPRESS MAIL
I hereby certify this communication is being deposited with the United States Postal Service "Express Mail Post Office to Addressee" under 37 C.F.R. § 1.10 on the date indicated and is addressed to: Assistant Commissioner for Patents, Washington, D.C. 20231.
<i>Willie Jiles</i>
Willie Jiles
Date: February 20, 2002
Exp. Mail Receipt No. EL930005213US

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Dear Sir:

PETITION UNDER 37 C.F.R. 1.53(e)

OFFICE OF PETITIONS

On January 30, 2002, the United States Patent and Trademark Office ("USPTO") mailed a *Notice of Omitted Item(s) in a Nonprovisional Application* ("*Notice of Omitted Items*", attached as EXHIBIT A), indicating that Figure 3 of the Drawings appears to have been omitted from *U.S. Patent Application Serial No. 10/032,945* ("*Patent Application*"). This petition is being filed to establish prior receipt in the USPTO of Figure 3 of the Drawings. Applicant respectfully contends that all papers associated with the *Patent Application* were properly received in the USPTO, and should be accorded a filing date of October 19, 2001. Applicant attaches the following evidence in support of this contention:

- **EXHIBIT A** is a true copy of the *Notice of Omitted Items* received by Applicants, from the USPTO (mailed January 30, 2002);
- **EXHIBIT B** is a true copy of Figure 4 (Sheet 3) of the Drawings;
- **EXHIBIT C** is a true copy of the date-stamped *Postcard Receipt* ("*Postcard Receipt*" received by Applicant, from the USPTO, which bears a USPTO mailroom stamp

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October 19, 2001, and which indicates that the *Patent Application* was assigned serial number 10/032,945;

- **EXHIBIT D** is a true copy of *Express Mail Receipt EL501019378US* ("*Express Mail Receipt*") received by Applicant, from the United States Post Office (Dallas, Texas);
- **EXHIBIT E** is a true copy of the *Certificate of Mailing by Express Mail* ("*Certificate of Mailing*") mailed to the USPTO with the *Patent Application*, on October 19, 2001; and
- **EXHIBIT F** is a true copy of the *Transmittal for U.S. Patent Application Under 37 CFR 1.53(b)* ("*Transmittal*") mailed to the USPTO with the *Patent Application*, on October 19, 2001.
- **EXHIBIT G** is a true copy of the *Request for Drawing Amendment* mailed to the USPTO on January 30, 2002, requesting Figure 4 (Sheet 3) be removed and replaced with an identical drawing properly labeled as Figure 3 (Sheet 3).
- **EXHIBIT H** is a true copy of the date-stamped *Postcard Receipt* ("*Postcard Receipt*") received by Applicant, from the USPTO, which bears a USPTO mailroom stamp of January 30, 2002 for the *Request for Drawing Amendment*.

SUMMARY

Applicant contends that the entire *Patent Application*, including Figure 4 (Sheet 3) of the Drawings, was received by the USPTO and warrant a filing date of October 19, 2001. Applicant bases this contention on the following:

A. The USPTO acknowledged receipt of the entire *Patent Application*

Applicant has attached evidence indicating that the USPTO received, and acknowledged receipt of the entire *Patent Application*, including Figure 3 (Sheet 3) of the Drawings which was not omitted, only improperly labeled as Figure 4. Attached is a true copy of the date-stamped *Postcard Receipt* (EXHIBIT C) received by Applicant, from the USPTO. This *Postcard Receipt* acknowledges receipt of, among other things, the *Certificate of Mailing* (EXHIBIT E). The *Certificate of Mailing* certifies that the *Transmittal* (EXHIBIT F), among other things, was received by the USPTO, with the *Patent Application*. Furthermore, the *Transmittal* indicates that the "Formal Drawings (5 Total Pages)" are

enclosed. The "5 Total Pages" referred to on the *Transmittal* include Figure 4 (Sheet 3) of the Drawings.

Applicant justifiably relied upon the date-stamped *Postcard Receipt* as evidence that the entire *Patent Application* was received by the USPTO. Applicant is aware of the policy of the USPTO to carefully review all applications for patent and associated paperwork for discrepancies. If the USPTO had not received the "5 Total Pages" referred to on the *Transmittal*, the USPTO would not have date-stamped and issued the *Postcard Receipt* which also indicates that 5 Total Pages of Drawings were filed. Based on the date-stamped *Postcard Receipt*, it was the understanding of Applicant that a complete and proper set of formal drawings, including Figure 4 (Sheet 3) of the Drawings, was received by the USPTO on October 19, 2001.

Furthermore, Applicant is aware that the mailroom of the USPTO tends to very carefully check the completeness of all applications for patent received in the USPTO. In this case, the pages of the Drawings were consecutively numbered. Applicant believes that any missing pages, including Figure 4 (Sheet 3) of the Drawings, would have been detected by the mailroom, and the date-stamped *Postcard Receipt* would not have been issued.

B. Applicant's records indicate that Figure 4 (Sheet 3) of the Drawings was mailed to the USPTO

Applicant's records, and standard practices and procedures, indicate that the entire *Patent Application* was mailed to the USPTO, via Express Mail, on October 19, 2001. It is the policy of Applicant to carefully review the contents of all patent applications, prior to mailing to the USPTO. It is also the policy of Applicant to photocopy all patent applications prior to mailing. In this particular case, Applicant photocopied the contents of the *Patent Application* which was retained in the file. The undersigned has reviewed the photocopy of the Patent Application, and it includes Figure 4 (Sheet 3) of the Drawings. The undersigned has also carefully compared Figure 4 (Sheet 3) of the photocopy with EXHIBIT B, and hereby states that the photocopy of Figure 4 (Sheet 3) is in fact a true copy of Figure 4 (Sheet 3) of the Drawings, mailed on October 19, 2001.

C. Applicant Filed a Request for Drawing Amendment to Correctly Label the Originally Filed Figure 4 (Sheet 3) as Figure 3 (Sheet 3)


As indicated in the attached *Request for Drawing Amendment* (Exhibit G), originally filed Figure 4 (Sheet 3) was improperly labeled and should have been labeled as Figure 3 (thus there were drawings labeled as Figures 4, 4A and 4B in the originally filed application, rather than as Figures 3, 4A and 4B). Therefore, Figure 3 was not omitted from the originally filed application, this figure was simply mislabeled. This mislabeling has now been corrected through the *Request for Drawing Amendment*.

CONCLUSION

For at least these reasons, Applicant has demonstrated that the entire *Patent Application* was received by the USPTO on October 19, 2001. Accordingly, Applicant respectfully requests the granting of this petition, and that a filing date of October 19, 2001 be afforded to the entire *Patent Application*, including Figure 3 (Sheet 3) of the Drawings.

Applicant has attached a check in the amount of \$130.00, pursuant to 37 CFR 1.53(e) and 37 CFR 1.17(i). The Commissioner is hereby authorized to charge any additional amount due to Deposit Account No. 02-0384 of Baker Botts L.L.P. **Furthermore, since the alleged omitted item was actually received by the USPTO, Applicant respectfully requests that this payment be refunded and credited to Deposit Account No. 02-0384 of Baker Botts L.L.P.**

Respectfully submitted,
BAKER BOTTS L.L.P.
Attorneys for Applicant


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Date: February 20, 2002